

EXHIBIT 4

NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY
VIDEOTAPED DEPOSITION OF KIMBERLY BOWLIN on 11/06/2015

Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS

3 NEW ENGLAND COMPOUNDING) MDI NO. 2419
4 PHARMACY, INC., PRODUCTS) Master Dkt.
5 LIABILITY LITIGATION,) 1:13-md-02419-RWZ
6)
7 THIS PERTAINS TO:)
8 ALL ACTIONS)

9 DEPOSITION OF KIMBERLY BOWLIN
10 TAKEN BY BENJAMIN A. GASTEL, ESQ.
11 ON BEHALF OF THE PLAINTIFFS
12 NOVEMBER 06, 2015

13 REPORTED BY SUSAN M. FIALA
14 REGISTERED PROFESSIONAL REPORTER
15 CERTIFIED SHORTHAND REPORTER
16 CERTIFIED COURT REPORTER
17
18
19
20
21
22
23
24
25



DISCOVERY
LITIGATION SERVICES
Court Reporting • Videography • Trial Presentations
Nationwide Coverage

100 Mayfair Royal
181 Fourteenth Street
Atlanta, GA 30309
404.847.0999
www.DiscoveryLit.com

1 that this should be considered a catastrophe?

2 MR. MORAN: Objection.

3 Q. (By Mr. Gastel) You can answer.

4 A. Yes.

5 Q. And so throughout today I'm probably
6 going to refer to the NECC catastrophe or the
7 fungal meningitis catastrophe, and I mean the --
8 the outbreak of fungal meningitis that occurred
9 in the Summer of 2012. Do you understand that?

10 A. Yes.

11 Q. From whom did you receive your
12 paychecks during the time that you worked at
13 Specialty Surgery Center?

14 A. Specialty Surgery Center.

15 Q. Who was your direct supervisor?

16 A. Ron and Gina Calisher.

17 Q. And Ron and Gina Calisher directed your
18 work activities?

19 A. Yes.

20 Q. Specialty Surgery Center is an
21 ambulatory care -- or I'm sorry -- an ambulatory
22 surgery center, correct?

23 A. Yes.

24 Q. What kind of procedures could patients
25 receive at Specialty Surgery Center?



DISCOVERY
LITIGATION SERVICES
Court Reporting • Videography • Trial Presentations

Nationwide Coverage

100 Mayfair Royal
181 Fourteenth Street
Atlanta, GA 30309
404.847.0999
www.DiscoveryLit.com

1 Q. That's okay.

2 A. Okay.

3 Q. And then the document then lists out
4 sort of by date the activities that the Center
5 took as it relates to the fungal meningitis
6 catastrophe, correct?

7 A. Yes.

8 Q. And you see the annotation there right
9 under 9/27/2012, you see the notation that on
10 9/26/2012 at 3:58 p.m. the Specialty Surgery
11 Center received a fax recall from New England
12 Compounding Company requesting all
13 Methylprednisolone Acetate. Did I read -- did I
14 read that correctly?

15 A. Yes.

16 Q. And then that sort of goes on to detail
17 what you did with the fax, correct? The fax was
18 placed on Jean Atkinson, Director of Nursing,
19 desk. Do you see that?

20 A. Yes.

21 Q. And then it appears that on September
22 28th Specialty Surgery Center was contacted by
23 Dr. Marion Kainer?

24 A. Yes.

25 Q. Who is Dr. Kainer?



DISCOVERY
LITIGATION SERVICES
Court Reporting • Videography • Trial Presentations
Nationwide Coverage

100 Mayfair Royal
181 Fourteenth Street
Atlanta, GA 30309
404.847.0999
www.DiscoveryLit.com

1 A. She was part of the Tennessee Health
2 Department.

3 Q. She was the doctor at the Tennessee
4 Department of Health that sort of spearheaded
5 their response to the fungal meningitis
6 catastrophe, correct?

7 A. Yes.

8 Q. And then you see there that, if you go
9 back to the annotation for 9/28/2012 at 4 p.m.
10 on the next page, CAL 315? Do you see where it
11 says, Dr. Kainer called wanting to know how many
12 patients was reached and was informed 72
13 percent. Did I read that correctly?

14 A. Yes.

15 Q. So this was -- so Specialty Surgery
16 Center began contacting patients on September
17 28th, 2012, as it relates to the fungal
18 meningitis catastrophe, correct?

19 A. Yes.

20 MR. KRAUSE: Object to form.

21 A. At the direction of the Health
22 Department.

23 Q. (By Mr. Gastel) And by the end of that
24 day Specialty Surgery Center had informed 72
25 percent of the patients affected, correct?



DISCOVERY
LITIGATION SERVICES
Court Reporting • Videography • Trial Presentations
Nationwide Coverage

100 Mayfair Royal
181 Fourteenth Street
Atlanta, GA 30309
404.847.0999
www.DiscoveryLit.com

1 Q. And so she placed a call on September
2 30th to inform Dr. -- Dr. Lister that the fungal
3 meningitis catastrophe was serious and very
4 concerning?

5 A. Yes.

6 MR. KRAUSE: Object to form.

7 Q. (By Mr. Gastel) Were you privy to that
8 conversation, ma'am?

9 A. No. From what I learned later about
10 this, Dr. Carter worked in Maryville, and she
11 heard about it from there.

12 Q. I see. And so that's when she called
13 Dr. Lister?

14 A. Yes.

15 Q. Do you see the annotation on October
16 2nd, 2013?

17 A. Yes.

18 Q. And it says -- well, will you just read
19 that annotation, please?

20 A. Kimberly Bowlin, Administrator,
21 notified SVMIC of the Methylprednisolone Acetate
22 recall by NECC that numerous patients were at
23 risk of developing fungal meningitis related to
24 this contaminated steroid.

25 Q. So you first contacted SVMIC on October



DISCOVERY
LITIGATION SERVICES
Court Reporting • Videography • Trial Presentations

Nationwide Coverage

100 Mayfair Royal
181 Fourteenth Street
Atlanta, GA 30309
404.847.0999
www.DiscoveryLit.com

1 2nd, 2013?

2 A. Yes.

3 Q. And this is actually the part of the
4 time line that you personally added, correct?

5 A. Yes.

6 Q. And SVMIC; who is SVMIC?

7 A. That's our malpractice company.

8 Q. So they carry your malpractice
9 insurance?

10 A. Yeah. I believe -- yes.

11 Q. Who directed you to contact SVMIC?

12 A. Oh. I believe it was Dr. Simpson.

13 Q. Okay.

14 A. I don't really remember.

15 Q. Did you contact SVMIC because you were
16 concerned that Specialty Surgery Center might be
17 sued as a result of the fungal meningitis
18 catastrophe?

19 A. Yes. Because it was an incident.

20 Q. And you contacted them as early as
21 October 2nd, 2013?

22 A. Yes.

23 Q. Okay. Will you flip over to the entry
24 on October 5th -- or I'm sorry. I think I said
25 October 2nd, 2013, but this is actually October



DISCOVERY
LITIGATION SERVICES
Court Reporting • Videography • Trial Presentations

Nationwide Coverage

100 Mayfair Royal
181 Fourteenth Street
Atlanta, GA 30309
404.847.0999
www.DiscoveryLit.com

1 2nd, 2012, right?

2 A. Yes.

3 Q. That's just a typo, right?

4 A. Yes.

5 Q. Right. So you actually contacted SVMIC
6 on October 2nd, 2012?

7 A. Yes.

8 Q. Will you flip over to the annotation
9 for October 5th, 2012, please?

10 A. Okay.

11 Q. And will you read the -- just the first
12 annotation, please?

13 MR. KRAUSE: Object to the form.

14 A. Jim Howell from SVMIC notified Ms.
15 Bowlin by phone that he would personally call
16 State Farm Insurance, our Medical Office and
17 Commercial Liability Policyholder, of the
18 situation and that our entire purchase of --
19 process of purchasing might be questioned.

20 Q. (By Mr. Gastel) Who is Jim Howell?

21 A. He's from SVMIC.

22 Q. And he directed you to contact another
23 insurance company because, quote, our entire
24 process of purchasing might be questioned?

25 MR. MORAN: Objection.

1 MR. KRAUSE: Object to the form.

2 A. He said he would contact them.

3 Q. (By Mr. Gastel) Oh. He said he would
4 contact them?

5 A. Yes.

6 Q. Okay. But he told you that was because
7 that Specialty Surgery Center's, quote, entire
8 process of purchasing might be questioned?

9 MR. KRAUSE: Object to the form.

10 A. Yes.

11 Q. (By Mr. Gastel) Did you ask him what he
12 meant by entire process -- process of purchasing
13 might be questioned?

14 MR. KRAUSE: Object to the form.

15 A. No.

16 Q. (By Mr. Gastel) And -- and -- but as of
17 October 5th, 2012, you were aware that Specialty
18 Surgery Center's entire process -- process of
19 purchasing might be questioned, correct?

20 MR. KRAUSE: Object to the form.

21 A. I believe it was at that point that we
22 realized that, yes.

23 Q. (By Mr. Gastel) Okay. And then I think
24 at some point Specialty Surgery Center -- strike
25 that.

1 Q. Ma'am, my name is Chris Tardio. I
2 represent Specialty Surgery Center and Dr.
3 Lister and a few other clinic defendants in this
4 case, and I have some questions for you.

5 So let's pick up kind of where we left
6 off. If you can just pull out 617 and 618?

7 A. Okay.

8 Q. One of which I think you were looking
9 at a minute ago. So do you have them --

10 A. I do.

11 Q. -- next to each other?

12 A. I do.

13 Q. Okay. So 617, I think we've
14 established, is the -- the formulary that was in
15 effect in 2010, right?

16 A. Yes, it appears so.

17 Q. And then 618 is the updated formulary,
18 which based on the email traffic, I think we've
19 established came sometime in 2013, right?

20 A. Yes.

21 Q. Was it routine for SSC to update the
22 formulary at points when you worked there, or do
23 you know?

24 A. I don't remember it.

25 Q. Okay. But if we look at these two



DISCOVERY
LITIGATION SERVICES
Court Reporting • Videography • Trial Presentations
Nationwide Coverage

100 Mayfair Royal
181 Fourteenth Street
Atlanta, GA 30309
404.847.0999
www.DiscoveryLit.com